

The Amendments

Claim 38 has been amended to recite a paint base as at least one of the carriers. This is supported in the specification at page 15, lines 15-16 and at page 16, lines 15-16 of the application as filed, and as paragraphs 74 and 82 of the published application:

[0074] The plant material of the present invention is preferably used in combination with a carrier. The type of carrier used will depend on how the plant material is to be used, for example if the plant material is to be used as a spray, it is preferred that the carrier is a suitable aqueous solution such as an alcoholic solution preferably comprising 1 to 10% alcohol in water. The carrier can also be an inert oil of plant origin, such as vegetable oil, corn oil and maize oil. Alternatively, if the plant material is to be used as a paint, any paint base can be used.

[0082] The type of carrier used will depend on how the compound is to be used, for example if the anti-barnacle composition is to be used as a spray, it is preferred that the carrier is a suitable aqueous solution such as an alcoholic solution preferably comprising 70 to 90% alcohol in water. Alternatively, if the anti-barnacle composition is to be used as a paint, any paint base can be used.

This amendment adds no new matter. Other changes to claim 38 are merely cosmetic. Claim recitations are reordered to provide a more coherent organization. The claim itself provides support.

The rejection of claims 38, 39, 40, and 43 under 35 U.S.C. §102(b)

Claims 38, 39, 40, and 43 stand rejected as anticipated by Zampino (U.S. 5,177,057). This rejection is respectfully traversed.

Zampino is cited as teaching a mixture for perfumed articles, including detergent, fabric softener, and hair preparations, such as hair spray and conditioning shampoos. Zampino also teaches foodstuffs and chewing gums with the compound.

Independent claim 38, the only independent claim of the rejected set of claims, has been amended to recite that the carrier comprises a paint base. Zampino does not teach using the recited compounds in a paint base. Detergent, fabric softener, foodstuffs, chewing gum, and the hair preparations as taught do not comprise a paint base. Therefore, Zampino does not anticipate claim 38 or any of its dependents.

Withdrawal of this rejection is therefore respectfully requested.

The rejection of claims 39, 39, 40 and 43 under 35 U.S.C. §102(b)

Claim 38, 39, 40, and 43 are also rejected as anticipated by Hood (U.S. 6,103,241). This rejection is similarly respectfully traversed.

Hood is cited as teaching an essential oil for treating ailments of human body, such as pain, bruising, wound healing. It may be used in a carrier. Hood does not, however, teach or suggest using the essential oil in a paint base, as required by amended independent claim 38. Thus Hood does not anticipate claim 38 or its dependents.

Withdrawal of this rejection is respectfully requested.

The rejection of claim 38-43 under 35 U.S.C. §103(a)

Claims 38-43 are rejected as unpatentable over Zampino. As discussed above, Zampino teaches compositions for use in perfumed articles, including detergent, fabric softener, and hair preparations, such as hair spray and conditioning shampoos. Nowhere does Zampino suggest combining the active agents with a paint base as required by the claims as amended. The uses taught by Zampino (as a fragrance) would not have suggested the use in a paint base nor as an anti-barnacle composition.

Thus one of skill in the art would not have been motivated to combine the recited elements in a composition as claimed. The subject matter of the amended claims is not, therefore, obvious over the teachings of Zampino. Please withdraw this rejection.

The rejection of claim 38-43 under 35 U.S.C. §103(a)

Claims 38-43 are rejected as unpatentable over Hood. As discussed above, Hood taught uses of treating the human body for pain, bruising, and wound healing. Nowhere did he suggest use in a paint base or for anti-barnacle treatment of surfaces. It is respectfully submitted that the


subject matter of the amended claims is not obvious over the teachings of Hood. Please withdraw this rejection.

Respectfully submitted,

Date: September 9, 2008

Banner & Witcoff, Ltd.  
Customer No. 22907

By:

  
Sarah A. Kagan  
Registration No. 32,141